

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
WICHITA FALLS DIVISION**

STATE OF TEXAS et al.,

Plaintiffs,

v.

**UNITED STATES OF AMERICA
et al.,**

Defendants.

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Civil Action No. 7:16-cv-00054-O

ORDER

Before the Court is Rhonda Fleming, Charlsa Little, and Jeanette Driver’s (collectively Putative Intervenor’s”) Motion to Intervene (ECF No. 101), filed December 29, 2016; and Putative Intervenor’s Motion for Preliminary Injunctive Relief (ECF No. 102), filed December 30, 2016. The existing parties filed objections (ECF Nos. 112, 113, 117) and the Putative Intervenor’s filed Replies and Request for a Live Hearing (ECF Nos. 118, 123). Having reviewed the pleadings and the applicable law, the Court finds that the motions must be **SEVERED** and removed to a new civil action.

Under Federal Rule of Civil Procedure 21, trial courts are afforded broad discretion to “sever any claim against a party.” Fed. R. Civ. P. 21; *Reid v. Gen. Motors Corp.*, 240 F.R.D. 260, 263 (E.D. Tex. 2007) (citing *Brunet v. United Gas Pipeline Co.*, 15 F.3d 500, 505 (5th Cir. 1994)). When considering severance, courts weigh the following factors: “(1) whether the claims arose out of the same transaction or occurrence; (2) whether the claims present common questions of law or fact; (3) whether settlement or judicial economy would be promoted; (4) whether prejudice

would be averted by severance; (5) whether different witnesses and documentary proof are required for separate claims.” *In re S. Scrap Material Co., LLC*, 713 F. Supp. 2d 568, 588 (E.D. La. 2010) (citing *Xavier v. Belfor Grp. USA, Inc.*, Nos. 06–491 and 06–7804, 2008 WL 4862549, at *3 (E.D. La. Sept. 23, 2008)). If a court severs claims under Rule 21, the severed claims “become independent actions with separate judgments entered in each.” *Id.* (citing 9 Charles A. Wright & Arthur R. Miller, *Federal Practice and Procedure* § 2387 at 277 (1971 & 1990 Supp.); 3A J. Moore, *Moore’s Federal Practice* ¶ 21.05[2] at 21–34–35 (1990)).

Putative Intervenorors seek to intervene in the present case to challenge the housing of male prisoners at Federal Medical Center Carswell. Put. Int. Mot. Intervene, ECF No. 101. Because the present case deals with statutes protecting privacy in educational environments and workplaces, not federal prisons, Putative Intervenorors’ claims are inapposite to the present case. Here, all of the relevant factors weigh in favor of severance.

For the foregoing reasons, it is **ORDERED** that the Clerk of the Court open a new civil action entitled “Rhonda Fleming, et al. v. John Doe” and copy the following to the docket of the new civil action: (1) ECF Nos. 101–125; and (2) this Order. Putative Intervenorors will be afforded an opportunity to amend or withdraw their complaint in the new civil action. Further, Putative Intervenorors’ Motion to Intervene (ECF No. 101); Motion for Preliminary Injunction (ECF No. 102); and Motion for Live Hearing (ECF No. 125) are hereby **DENIED as moot** in the present case.

SO ORDERED on this **3rd day of February, 2017**.


Reed O'Connor
UNITED STATES DISTRICT JUDGE